IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1911 OF 2006

National Insurance Co.Ltd. ...Appellant

vs.

Surekha Balkrishna Jadhav and ors. ...Respondents

Mr.A.B.Barve for the Appellant
Ms M.G.Ghotekar for Respondent No.5.

CORAM: A.S.OKA, J.
DATE : JANUARY 8,2007.

P.C.:

1. Heard Advocate for the Appellant. The learned Advocate for the Appellant on instructions states that no Application was made by the Appellant before the Tribunal for invoking provisions of section 170 of Motor Vehicles Act, 1988. This is not a case where the defence covered by section 149 of the said Act of 1988 is raised by the Appellant before the Tribunal.

2. Therefore, in view of the decision of the Apex Court in case of National Insurance Company Ltd. Vs.Nicolletta Rohtagi and others [(2002) 7 S.C.C. page 456, this Appeal is not maintainable in law. Accordingly, Appeal is dismissed as not maintainable. The Appellant will be entitled to refund of Rs.25,000/- deposited in this Court.

JUDGE